

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

LUIS ALEJANDRO GARZA,
Plaintiff,

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v.

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Civil Action No. B-02-154

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UNITED STATES OF AMERICA,
Defendant.

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***DEFENDANT'S UNOPPOSED MOTION FOR
CONTINUANCE OF FINAL PRETRIAL CONFERENCE***

TO THE HONORABLE JUDGE OF SAID COURT:

The Defendant, United States of America, moves this Honorable Court for an order continuing the September 27, 2006, Final Pretrial Conference for thirty days. In support of this motion, the United States submits the following:

1. A Final Pretrial Conference is scheduled to take place on this matter on September 27, 2006, at 1:30 p.m.
2. On September 13, 2006, the parties herein filed their proposed Final Pretrial Order. In this proposed Final Pretrial Order, the government advised that beginning October 20, 2006, a key witness in this matter-Debra Romero-would be unavailable for a period of twelve weeks. Consequently, the government asked that the bench trial in this matter be set to take place prior to October 20, 2006.
3. On September 15, 2006, counsel for the United States received from Plaintiff's counsel "Plaintiff's Third Motion to Compel Discovery" and "Plaintiff's Motion for Government to Produce Inmate Witnesses".
4. On September 25, 2006, counsel for the government was contacted by local

officials with the United States Marshal's Service (USMS). USMS officials advised that in the event that writs were issued in order to secure the presence of the Plaintiff as well as the inmate witnesses listed in "Plaintiff's Motion for Government to Produce Inmate Witnesses", it would be difficult and costly to secure their presence before October 20, 2006.

5. On September 25, 2006, he undersigned contacted the witness, Debra Romero, who advised that the reason for her twelve week absence was that she was in the process of adopting a child. Ms. Romero advised that due to some recently arisen complications, she may be unavailable earlier than October 20, 2006. Ms. Romero believes, however, that these issues should be resolved by the end of the first or second week of November and that she would be able to travel to Brownsville to provide her testimony a trial. Should the Court desire more details relating to these complications, the United States will endeavor to provide them; however, the undersigned would ask that said details be provided under seal in order to protect Ms. Romero's privacy.
6. In addition, with regard to "Plaintiff's Third Motion to Compel Discovery" and "Plaintiff's Motion for Government to Produce Inmate Witnesses", the government's response to same is not due until October 5, 2006--although the government anticipates filing a response prior to that time.
7. In light of the logistical/cost problems raised by USMS officials with relation to potential issuance of writs associated with the "Plaintiff's Motion for Government to Produce Inmate Witnesses" and the issues related to

government witness Debra Romero, the government respectfully asks that this matter be continued for at least thirty days.

WHEREFORE, PREMISES CONSIDERED, the United States prays that this Court continue this Final Pretrial Conference for thirty days. The United States does not believe that any of the parties will be prejudiced by this continuance and that justice will be served by the granting of this motion.

Respectfully submitted,

DONALD J. DeGABRIELLE, JR.
United States Attorney

/s/ Nancy L. Masso
NANCY L. MASSO
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Statement of Consultation

I verify that on September 25, 2006, I spoke with Plaintiff's attorney, Barry Benton, regarding this motion. Mr. Benton advised that he did not oppose the motion.

/s/ Nancy L. Masso
NANCY L. MASSO
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the true and foregoing "DEFENDANT'S UNOPPOSED MOTION FOR CONTINUANCE OF FINAL PRETRIAL CONFERENCE" was mailed on this the 26th day of September via First Class Mail to Barry R. Benton, Attorney at Law, 284 Ebony Avenue, Brownsville, TX 78520.

/s/ Nancy L. Masso
NANCY L. MASSO
Assistant United States Attorney